

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FELIX V. CUADRADO

Plaintiff,

V.

TI COMMUNITIES

Defendant.

CIVIL ACTION NO. _____

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441(a), Defendant TI Communities HR, LP, incorrectly named as “TI Communities” (“Defendant”), removes the Petition filed by Plaintiff Felix V. Cuadrado (“Plaintiff”) in the 134th Judicial District Court, Dallas, Texas as follows:

1. On February 28, 2020, Plaintiff filed a petition in an action entitled *Felix V. Cuadrado v. View at Kessler Park and TI Communities*, in the 134th Judicial District Court of Dallas County, Texas; Cause No. DC-20-03308 (the “State Action”). Plaintiff filed his petition in the State Action seeking to recover damages for the following: alleged violations of the Family Medical Leave Act, defamation, tortious interference, negligent/intentional misrepresentation, breach of contract, promissory estoppel, quantum meruit, and intentional infliction of emotional distress. Defendant’s Index of Documents for Removal is attached as Exhibit A. True and correct copies of Plaintiff’s Original Petition, and any other pleadings or orders on file in the State Action are attached hereto as Exhibits A-1 – A-34.

2. Defendant timely answered Plaintiff's Original Petition. Plaintiff subsequently filed a First Amended Petition and then filed his Second Amended Petition on October 29, 2020, in the State Action. On November 2, 2020, Plaintiff filed a Notice of Nonsuit in the State Action related to the defendant named as View at Kessler Park, dismissing that party from the State Action. In Plaintiff's Second Amended Petition, Plaintiff, for the first time, asserts federal claims under the Family Medical Leave Act ("FMLA"). This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(3) because Defendant is filing this removal within thirty (30) days of service of an "amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable."

3. The basis for this Court's jurisdiction and the removal of this case to this Court is 28 U.S.C. §§ 1331 & 1332. There is jurisdiction on the basis of a federal question pursuant to 28 U.S.C. § 1331 because Plaintiff seeks relief pursuant to the FMLA, 29 U.S.C. § 2601 *et seq.* Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiff's related state law claims for defamation, tortious interference, negligent/intentional misrepresentation, breach of contract, promissory estoppel, quantum meruit, and intentional infliction of emotional distress, which arise from the same core of operative facts as Plaintiff's claims arising under federal law.

4. In addition to federal question jurisdiction, there is diversity jurisdiction pursuant to 28 U.S.C. § 1332. Plaintiff is an individual and a citizen of Texas. (*See* Plaintiff's Second Amended Petition ¶ 4). Defendant, TI Communities HR, LP, is a limited partnership organized under the laws of Delaware. (Exhibit B, Declaration of Christine Schoellhorn ("Schoellhorn decl.") ¶ 3). The citizenship of a limited partnership for diversity purposes is determined by the citizenship of its partners. *Carden v. Arkoma Assoc.*, 494 U.S. 185, 195

(1990). TI Communities HR, LP has a limited partner and a general partner. (Schoellhorn decl. ¶ 3). The limited partner of TI Communities HR, LP is a limited partnership organized under the laws of Delaware. *Id.* The general partner of the that limited partnership is a limited liability company with its manager located in California.¹ The limited partners all reside in California. *Id.* The general partner of TI Communities HR, LP is a corporation incorporated in the state of Delaware, with its principal place of business located in Santa Monica, California. *Id.* Because none of the partners of TI Communities HR, LP are citizens of Texas, complete diversity exists between Plaintiff and TI Communities HR, LP pursuant to 28 U.S.C. § 1332. Additionally, the amount in controversy exceeds \$75,000. Plaintiff's Petition states that he seeks to recover "monetary relief between \$200,000.00 and \$1,000,000." (See Plaintiff's Second Amended Petition ¶ 2). The statements of the relief sought in the Petition make clear that the amount in controversy is more than \$75,000. Based on the complete diversity of citizenship between the parties and the amount in controversy, jurisdiction is proper under 28 U.S.C. § 1332.

5. Defendant has or will promptly file a true and correct copy of this Notice of Removal with the Clerk of the 134th Judicial District in Dallas County, Texas, as required by 28 U.S.C. § 1446(d).

6. The following is a list of counsel of record for the parties:

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¹ The citizenship of an LLC is determined by the citizenship of all its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

Counsel for Defendant

Counsel for Plaintiff

For these reasons, Defendant requests that the above-styled action, pending in the 134th Judicial District Court in Dallas County, Texas, be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

By: /s/ Kristin L. Bauer

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served by filing with the ECF filing system on November 25, 2020, which will cause service to be made upon the following:

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